

## Federal Election Commission

## § 7.23

### § 7.18 Use of inside information.

(a) A special Commission employee shall not use inside information obtained as a result of his or her Commission employment for unlawful private gain for himself or herself, or for another person, either by direct action on the employee's part or by counsel, recommendation, or suggestion to another person, particularly one with whom the employee has family, business, or financial ties. For the purpose of this section, *inside information* means information obtained under Commission authority which has not become part of the body of public information.

(b) A special Commission employee may teach, lecture, or write in a manner consistent with 11 CFR 7.9 (d) and (e).

### § 7.19 Coercion.

A special Commission employee shall not use his or her Commission employment to coerce, or give the appearance of coercing, a person to provide unlawful financial benefit to himself or herself or to another person, particularly one with whom the employee has family, business, or financial ties.

### § 7.20 Gifts, entertainment, and favors.

Except as provided at 11 CFR 7.8(b), a special Commission employee, while so employed or in connection with his or her employment, shall not receive or solicit from a person having business with the Commission anything of value such as a gift, gratuity, loan, entertainment, or favor for himself or herself, or for another person, particularly one with whom the employee has family, business, or financial ties.

### § 7.21 Miscellaneous statutory provisions.

Each special Commission employee shall acquaint himself or herself with each statute that relates to his or her ethical or other conduct as a special Commission employee. Particular attention should be directed to the statutory provisions listed in 11 CFR 7.16.

## Subpart D—Post Employment Conflict of Interest: Procedures for Administrative Enforcement Proceedings

### § 7.22 Scope.

The following are procedures to be followed by the Federal Election Commission in investigating and administratively correcting violations of the post employment conflict of interest provisions contained in 18 U.S.C. 207 (a), (b), and (c), which restrict activities of former employees, including former special Commission employees, which might give the appearance of undue benefit based on prior Commission employment and affiliation. Where appropriate for purposes of this subpart, *former special Commission employee* shall be defined in accordance with 18 U.S.C. 207(c)(1).

### § 7.23 Initiation of investigation.

(a) *Filing of complaint.* (1) Any person who believes a former employee has violated the post employment conflict of interest provisions of 18 U.S.C. 207 (a), (b), or (c), or 5 CFR part 737 may file a signed complaint with the Ethics Officer.

(2) The Ethics Officer, within five days after receipt of the complaint, shall send a copy of the complaint by certified mail to the former employee named in the complaint. The former employee may, within ten days after receipt of the complaint, submit any written legal or factual materials he or she believes demonstrate that the complaint should be dismissed on its face.

(b) *Review of complaint.* (1) The Ethics Officer will review the complaint and any materials submitted by the former employee, and will prepare a report to the Commission recommending whether the complaint should be investigated or should be dismissed on its face.

(2) If the Commission, by an affirmative vote of four members, finds that the complaint appears to be substantiated, it may order an investigation of the allegations made in the complaint.

(i) Except as may be required to coordinate with the Department of Justice under 11 CFR 7.23(b)(2)(iii) any investigation conducted under this section shall be kept confidential until

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such time as the Commission has determined whether there is reasonable cause to believe a violation has occurred.

(ii) The Ethics Officer shall notify the Director of the Office of Government Ethics and the Criminal Division of the Department of Justice of the Commission's finding that the complaint has merit. The notification shall contain a copy of the complaint, any materials submitted by the former employee, the Ethics Officer's report, and the certification of the Commission's action.

(iii) The Commission will coordinate any investigation or administrative action with the Department of Justice to avoid prejudicing criminal proceedings, unless the Department of Justice notifies the Commission that it does not intend to initiate criminal proceedings.

(3) If the Commission finds the complaint to be unfounded, no investigation will be conducted and both the complainant and the former employee will be notified by the Ethics Officer of the Commission's finding.

## § 7.24 Conduct of preliminary investigation.

(a) *Ethics Officer's responsibility.* Upon a finding under 11 CFR 7.23(b)(2) that a complaint appears to be substantiated, the Ethics Officer shall conduct an investigation into the allegations of the complaint.

(b) *Opportunity to respond.* The former employee will be sent a copy of the Ethics Officer's report and will be given an opportunity to respond in writing and under oath to the allegations made in the complaint and the findings made in the report. The former employee may provide any written legal or factual materials he or she believes demonstrate that no violation has occurred. Such response must be received by the Commission within 20 days after the former employee's receipt of the Ethics Officer's report, unless an extension is authorized in writing by the Ethics Officer.

(c) *Representation by counsel.* The former employee may be represented by counsel during the investigation. Such counsel shall notify the Ethics Officer in writing that he or she is representing the former employee. There-

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after, all communications between the Commission staff and the former employee relating to the investigation shall be made to the former employee's counsel.

(d) *Report to the Commission.* Upon completion of the investigation, the Ethics Officer shall prepare a report to the Commission, including any materials provided by the former employee. The report shall recommend whether there is reasonable cause to believe the respondent has violated 18 U.S.C. 207 (a), (b), or (c).

## § 7.25 Initiation of administrative disciplinary proceeding.

(a) *Commission review of report.* The Commission shall review the Ethics Officer's investigative report in Executive Session.

(b) *Reasonable cause to believe finding.* If the Commission, by an affirmative vote of four members, determines there is reasonable cause to believe a violation has occurred, it shall initiate an administrative disciplinary proceeding by providing the former employee with the notice defined in 11 CFR 7.26.

(c) *No reasonable cause to believe finding.* If the Commission determines that there is no reasonable cause to believe a violation has occurred, it will close its file on the matter and take no further action. The Commission shall notify the Director of the Office of Government Ethics, the Criminal Division of the Department of Justice, the complainant, and the former employee of its determination. Included in this notification will be a statement of reasons for the Commission's determination.

## § 7.26 Notice to former employee.

(a) *Notice requirement.* After a reasonable cause to believe finding the Ethics Officer shall provide the former Commission employee with adequate notice of an intention to institute a disciplinary proceeding and an opportunity to request a hearing.

(b) *Contents.* The notice required under this section shall contain:

(1) A statement of the allegations (and the basis thereof);

(2) Notification of the right to request a hearing;